

WSR 24-02-045
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed December 27, 2023, 4:27 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-18-018.

Title of Rule and Other Identifying Information: The department of social and health services (DSHS) is proposing amendments to WAC 388-444-0030 Are able-bodied adults without dependents (ABAWD) subject to additional work requirements and time limits to be eligible for basic food? and 388-444-0035 Who is exempt from ABAWD time limits and minimum work requirements?

Hearing Location(s): On February 6, 2024, at 10:00 a.m., virtually via Microsoft Teams or call in. Please see the DSHS website for the most up-to-date information.

Date of Intended Adoption: Not earlier than February 7, 2024.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by February 6, 2024, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Shelley Tencza, DSHS rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email Tencza@dshs.wa.gov, by January 23, 2024, at 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These amendments are necessary to comply with federal regulatory changes under the Fiscal Responsibility Act of 2023, effective September 1, 2023. Related amendments are in effect as of September 1, 2023, under emergency rule filed as WSR 23-18-017 and 24-01-133.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120.

Rule is necessary because of federal law, [no information supplied by agency].

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Troy Burgess, P.O. Box 45470, Olympia, WA 98504-5470, 360-584-5162.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. These rules are exempt as allowed under RCW 34.05.328 (5) (b) (vii) which states in part, "[t]his section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents.["]

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: [No information supplied by agency].

Is exempt under RCW 34.05.328 (5)(b)(vii).

Explanation of exemptions: These amendments do not impact small businesses. They only impact DSHS customers.

Scope of exemption for rule proposal:

Is fully exempt.

December 27, 2023
Katherine I. Vasquez
Rules Coordinator

SHS-4998.2

AMENDATORY SECTION (Amending WSR 21-07-132, filed 3/23/21, effective 4/23/21)

WAC 388-444-0030 Are able-bodied adults without dependents (ABAWD) subject to additional work requirements and time limits to be eligible for basic food? (1) An able-bodied adult without dependents (ABAWD) is a person who:

(a) Is age ((eighteen)) 18 through:

(i) ((forty-nine)) 50 from September 1, 2023, to September 30, 2023;

(ii) 52 from October 1, 2023, to September 30, 2024;

(iii) 54 beginning October 1, 2024; and

(b) Is fit for work and not exempted under WAC 388-444-0035.

(2) ((If you are an ABAWD, you must participate in work activities under subsection (3) of this section.

~~(3))~~) A nonexempt ABAWD is not eligible to receive food assistance for more than three full months (which do not have to be consecutive months), not including any partial benefit months in a ((thirty-six)) 36 month period, unless the ABAWD:

(a) Works an average of ((eighty)) 80 hours per month, including:

(i) Work in exchange for money;

(ii) Work in exchange for goods or services ("in kind" work);

(iii) Unpaid work that is verified according to department requirements; or

(iv) Any combination of (a)(i) through (iii) of this subsection;

(b) Participates in one of the following work programs and is meeting the requirements of that work program:

(i) The Workforce Innovation and Opportunity Act of 2014;

(ii) Section 236 of the Trade Act of 1974;

(iii) A state-approved employment and training program at least an average of ((eighty)) 80 hours per month; or

(c) Participates in an unpaid work program as provided in WAC 388-444-0040.

AMENDATORY SECTION (Amending WSR 21-07-132, filed 3/23/21, effective 4/23/21)

WAC 388-444-0035 Who is exempt from ABAWD time limits and minimum work requirements? Some people who receive basic food are exempt

from able-bodied adult without dependents (ABAWD) time limits and minimum work requirements. You are exempt from ABAWD time limits and work requirements under WAC 388-444-0030 if you meet any one or more of the following:

- (1) You are exempt from work requirements under WAC 388-444-0010;
- (2) You are under age ~~((eighteen))~~ 18 or are age:
 - (a) ~~((fifty))~~ 51 or older from September 1, 2023, to September 30, 2023;
 - (b) 53 or older beginning October 1, 2023, through September 30, 2024; and
 - (c) 55 or older beginning October 1, 2024.
- (3) You receive temporary or permanent disability benefits issued by a governmental or private source;
- (4) You are obviously mentally or physically unfit for employment as determined by the department; however, if the unfitness is not obvious, you must provide a statement that you are physically or mentally unfit for employment from a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, licensed or certified psychologist, social worker, or any other medical personnel the department determines appropriate;
- (5) You are an adult in a basic food assistance unit that has a family member who is under the age of ~~((eighteen))~~ 18;
- (6) You are pregnant;
- (7) You are homeless;
- (8) You are a veteran as defined under the James M. Inhofe National Defense Authorization Act of 2023;
- (9) You are 24 or younger, and were:
 - (a) In foster care as defined in RCW 74.13.020 at the time of your 18th birthday; or
 - (b) Under extended foster care services as defined in RCW 74.13.336;
- (10) You live in an area approved as exempt by U.S. Department of Agriculture (USDA); or
- ~~((8))~~ (11) You are eligible for one of the approved exemption slots under the ~~((U.S. Department of Agriculture))~~ USDA ~~((fifteen percent exemption))~~ discretionary exemptions rule.